

Resale Certificate

AUGUST 2008

WHOLESALE TRANSACTIONS

Sales made to a registered business for resale and certain services (such as construction) are wholesale transactions if a resale certificate is given to the seller. The seller reports such sales under the Wholesaling business and occupation tax classification, and sales tax does not apply.

RETAIL SALES

All sales of tangible personal property and certain services (such as construction) to consumers are retail sales. Sellers report retail sales under the Retailing business and occupation tax classification and the Retail Sales tax classification.

REASONS FOR USING A RESALE CERTIFICATE

A registered business only uses a resale certificate for purchases of property or services, which are:

- For resale in the regular course of business, without intervening use by the buyer.
- An ingredient or component part of a new article of tangible personal property produced for sale.
- Chemicals used in processing an article produced for resale.
- For use in processing ferrosilicon which is subsequently used in producing magnesium for sale.
- To be provided to consumers as part of competitive telephone service.
- Feed, seed, seedlings, fertilizer, spray materials, or agents for enhanced pollination, including insects such as bees, for use by a farmer for producing for sale any agricultural product; or use in the federal conservation service program or its successor administered by the United States Department of Agriculture.

When goods or services are purchased for these reasons, the buyer must give the seller a fully completed resale certificate. Sellers must keep the resale certificate on file.

Resale certificates should not be sent to the Department of Revenue.

PURCHASES FOR DUAL PURPOSES

Buyers making purchases for dual purposes must purchase according to the general nature of their business. If the item purchased is principally resold, the buyer may issue a resale certificate for the entire purchase. Deferred sales tax should be paid on any items withdrawn from inventory and used by the business. Deferred sales tax is reported on the "Use Tax" line of the excise tax return. If the item purchased is principally used by the business, a resale certificate should not be given and retail sales tax should be paid. The business may take a tax paid at source deduction for items resold when sales tax was previously paid.

One type of business that frequently makes purchases for dual purposes is a contractor who does both speculative and custom building. Speculative builders are required to pay retail sales tax on all materials and subcontract labor used during construction. Custom builders purchase materials and subcontract labor for resale, and charge their customer retail sales tax on the final contract price.

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When a contractor purchases materials and does not know if they will be used for a speculative or custom building, the resale certificate must be used as follows:

If the **majority** of the contractor's business is **speculative building** and only a minor part is custom building, the contractor must pay retail sales tax on the total purchase. A resale certificate should not be used. If any of this material is incorporated into a custom building, the contractor can take a deduction for tax paid at source on the excise tax return. This deduction is for the cost of custom building materials on which sales tax has been paid.

If a contractor does mostly **custom building** and very little speculative building, then a resale certificate may be used for the total purchase. If some of the materials are used on a speculative building, deferred sales tax is due on the cost of the materials used. The deferred sales tax is paid on the "Use Tax" line of the excise tax return.

RESPONSIBILITIES AND LIABILITIES

■ SELLER

A seller must receive a fully completed resale certificate at the time of sale, or within a reasonable time after the sale. The Department of Revenue has determined 120 days to be a reasonable time. A legible fax or copy of the original certificate may be accepted. If the seller does not receive a resale certificate, the seller **MUST** charge the customer retail sales tax.

If the resale certificate is not obtained within the reasonable time specified, the seller is required to amend its excise tax return. The amended return should change the sale from a wholesale sale to a retail sale and report the retail sales tax. If the buyer does not pay the retail sales tax, the seller may attempt to collect it through legal means. The Department of Revenue will look to the seller for the retail sales tax.

However, if the seller can provide proof to the Department that the sale was a wholesale sale without the resale certificate, we will not require the seller to pay the retail sales tax.

Proof consists of:

1. Nature of the buyer's business.
2. Quantity and frequency of items sold.
3. Available documents, such as purchase orders and shipping instructions, that help prove the items were for resale.

The seller should use prudent judgment at the time of sale and attempt to determine if a buyer will actually resell the items or services.

For example, a person purchases several silk plants and provides a resale certificate. The type of business listed on the resale certificate is "physician." A question should immediately arise as to whether the physician will resell the plants or use them for office decoration.

The seller has the right to deny a sales tax exempt sale, if the seller feels the buyer is not going to resell the items.

■ BUYER

Buyers may use the resale certificate to purchase items or services for resale in the regular course of business. Purchases made with a resale certificate for any other reason are not permitted.

Buyers who use the resale certificate to purchase items or services for their own use, without paying the retail sales tax, will be assessed a penalty of 50 percent of the tax due on the improperly purchased item or service. This penalty will be in addition to any other taxes, penalties, or interest due on the purchase.

Penalties will be assessed on improper use, which is why the following or a similar statement must be on each resale certificate:

I acknowledge that I am solely responsible for purchasing within the categories listed. I acknowledge that misuse of the resale privilege claimed by use of this certificate subjects me to a **penalty of 50 percent of the tax due**, in addition to the tax, interest, and any other penalties imposed by law.

This penalty is assessed by the Department only against the buyer. Examples of improper purchases using a resale certificate are:

- XYZ, a restaurant, purchases a vacuum using a resale certificate. XYZ does not sell vacuums, therefore, a resale certificate may not be used.
- ABC, seller of containers, purchases pallets to use for storing and moving the containers in its warehouse using a resale certificate. ABC does not sell the pallets, they are for ABC's own use in the warehouse. A resale certificate may not be used.

SINGLE-USE OR BLANKET CERTIFICATE

For purchases from the same seller(s) on a regular basis, a blanket resale certificate may be used. The resale certificate must be given to the seller by the buyer at the time of purchase, or within a reasonable time (120 days). Faxed certificates are acceptable.

■ **SINGLE-USE**

A single-use resale certificate is given to the seller at the time of the purchase for a specific purchase only. The seller must keep the certificate or a copy of the certificate in its records for five years after the certificate is last used.

■ **BLANKET CERTIFICATE**

A blanket certificate, is the same certificate as the single-use certificate, except that a statement should be added that the certificate shall be considered a part of each future order. Both the buyer and the seller understand the buyer will be making purchases of the same items for resale on a regular basis. Blanket certificates are valid for as long as the buyer and seller have a recurring business relationship. A "recurring business relationship" means at least one sale transaction within a period of twelve consecutive months. The seller must keep the resale certificate in its records for a period of five years after the last use of the certificate.

SALES TO PERSONS WHO HAVE NO UNIFIED BUSINESS IDENTIFIER (UBI)/TAX REGISTRATION NUMBER

On occasion, someone will not have a Washington UBI/tax registration number and will want to make a retail sales tax exempt purchase for resale. Such sales may be made under limited circumstances as discussed below.

■ **FARMERS**

Farmers are not required to register with the Department unless they sell their products at retail. Farmers who sell products at either wholesale or retail are entitled to make purchases of feed, seed, seedlings, fertilizer, spray materials or agents for enhanced pollination, such as bees, without paying the retail sales tax on these items by using a resale certificate.

If farmers do NOT have a UBI/tax registration number, they should still complete the resale certificate (single-use or blanket) and leave the UBI/tax registration number line blank. They must mark the box "for use as feed, seed, seedlings, fertilizer, or spray materials in my capacity as farmer."

Farmers who do not sell their agricultural products are not entitled to use a resale certificate. Such persons must pay retail sales tax on all their purchases of feed, seed, etc.

Farmers may also qualify to use other exemption certificates to document sales tax-exempt purchases, such as the **Farmers' Retail Sales Tax Exemption Certificate** or the **Buyers' Retail Sales Tax Exemption Certificate**.

■ **OUT-OF-STATE BUSINESSES**

Out-of-state businesses that do not operate in Washington are not required to obtain a UBI/tax registration number. Such businesses may make purchases from Washington sellers, stating that the purchases are for resale. These out-of-state buyers must complete the same resale certificate (single-use or blanket).

The resale certificate should be completely filled out with the exception of the UBI/tax registration number. The registration number is not required if the business is not required to be registered in this state. If the business has a registration number from the state in which it is located, that number and the state should be put on the resale certificate. If there is not a number, the line should be left blank. The buyer's address will show that they are an out-of-state business.

■ **NONPROFITS**

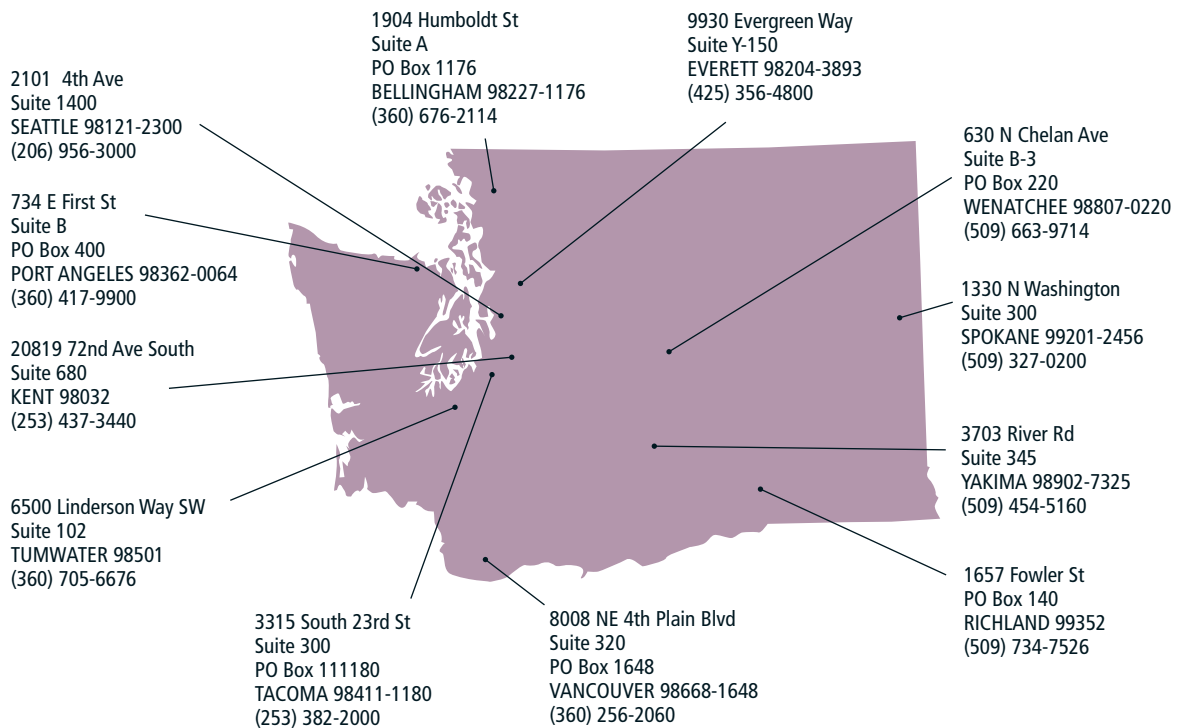
Buyers purchasing items to be resold at qualifying fundraising events may use a resale certificate even though they do not have a tax registration number. They should enter "Nonprofit Fundraiser" instead of a tax registration number.

TO OBTAIN A RESALE CERTIFICATE

Resale certificates are available on our web site at dor.wa.gov or by calling 1-800-647-7706. Generally, local stationary stores also carry the resale certificate.

DEPARTMENT OF REVENUE TAXPAYER ASSISTANCE

LOCAL OFFICE LOCATIONS



TELEPHONE INFORMATION CENTER

1-800-647-7706

WEB SITE

dor.wa.gov

MAILING ADDRESS

Washington State Department of Revenue
PO Box 47478
Olympia, WA 98504-7478

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Teletype (TTY) users please call 1-800-451-7985.

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